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November 2, 2023

VIA ECF

Honorable Paul G. Gardephe
United States District Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square, Room 2204
New York, NY 10007

Re: *Emigrant Bank, et al. v. SunTrust Bank, et al.*, No. 1:20-cv-02391-PGG-OTW—
Joint Letter re Defendants' Counterclaims and Affirmative Defenses

Dear Judge Gardephe:

Plaintiffs Emigrant Bank and Pacific Mercantile Bank (together, "Plaintiffs") and Defendant Truist Bank, successor by merger to Defendant SunTrust Bank ("Truist"), write jointly to follow up on the issues discussed at the October 26, 2023 status conference. During the October 26, 2023 conference, the Court provided the parties with its impressions of Plaintiffs' anticipated motions to dismiss Truist's counterclaims and strike Truist's Eighth Affirmative Defense (ECF Nos. 94, 95) and instructed the parties to submit a joint letter by November 2, 2023 informing the Court how they wish to proceed.

The parties have conferred, and—consistent with the Court's guidance—Plaintiffs agree to and hereby withdraw their request to move to dismiss Counterclaims 1 and 2 and their request to move to strike Truist's Eighth Affirmative Defense, and Truist intends to file a notice of voluntary dismissal of Counterclaims 3 and 4 pursuant to Rule 41(c).

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Corey Worcester

Corey Worcester
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and Pacific Mercantile Bank*

/s/ Kenneth B. Fowler

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